

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

JASON FOSTER

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No. 07 CR 772
Judge Virginia M. Kendall

**GOVERNMENT'S MOTION TO WITHDRAW ITS NOTICE OF PENALTY
ENHANCEMENT UNDER 21 U.S.C. § 851**

The UNITED STATES OF AMERICA, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois hereby withdraws its Notice of Penalty Enhancement Under 21 U.S.C. § 851. In support of its motion, the government states as follows:

1. On December 18, 2007, Defendant was charged in a two count indictment charging defendant with knowingly and intentionally distributing over 5 grams of crack cocaine (Count One) and knowingly and intentionally distributing over 50 grams of crack cocaine (Count Two), both in violation of 21 U.S.C. § 841(a)(1).

2. On January 7, 2008, the government filed its notice of intention to seek statutory enhanced penalties, pursuant to 21 U.S.C. § 851. The government stated that it may rely on defendant's prior drug convictions to seek a penalty enhancement.

3. The government has determined that it does not intend to seek an enhancement in this case. Therefore, the government hereby moves to withdraw its Notice of Penalty Enhancement under 21 U.S.C. § 851.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

BY: /s/ Bethany K. Biesenthal
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CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following document:

Government's Motion to Withdraw its Notice of Penalty Enhancement under 21 U.S.C. § 851

was served on March 24, 2008, in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's ECF system as to ECF filers, if any.

/s/ Bethany K. Biesenthal

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